IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE NINETEENTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

**THE HON'BLE MR JUSTICE N.V. RAMANA**

**WRIT PETITION NO : 22129 of 1997**

Between:

1 Muppudi China Satyam, S/o. Sarrayya, R/o. Jeedigunta Village & Post, Nidadavolu Mandal, West Godavari District
2 Puchakayala Pedda Sahadevudu, S/o. Dharmaiah, R/o. Jeedigunta Village & Post, Nidadavolu Mandal, West Godavari District
3 Kommanamanchi Satyavathi, W/o. Janaki Ramaiah, R/o. Jeedigunta Village & Post, Nidadavolu Mandal,West Godavari District

**..... PETITIONERS**

AND

1 The District Collector,( Panchayat Wing), W.G.Dist, Eluru, West Godavari District
2 District Panchayat Officer, Eluru.
3 Divisional Panchayat Officer, Kovvur, West Godavari District
4 Jeedigunta Gram Panchayat, Rep by its Executive Officer.
5 Rajakajana Seva Sangham, Rep by its President Avidi Pada Satyam, Jeedigunta Village & Post, Nedadavolu Mandal, West Godavari District

**.....RESPONDENTS**

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ, Order or direction more in the Writ of Mandamus declaring the total inaction of the Respondent No.1 to Respondent No.3 in implementing the resolution i.e., resolution No.31 of 30.7.96 of Respondent No.4 despite repeated representations and also the threatned action of Respondent No.3 and Respondent No.4 relating to reallotment of Ura tank in R.S.No. 20/3 of Jeedigunta Village despite the Panchayat resolution and despite that the petitioners and the Village Jeediguta have no proper drinking water facility/protected water scheme as totally arbitrary,

illegal and Unconstitutional being violative of Article 14,21 of the Constitution of India and also contrary to Section 81, 82 of A.P. Panchayat Raj Act Act 1994 and consequently direct the Respondents No.2 to 5 not to interfere with the enjoyment of Ura Water Tank in R.S.No. 20/3 of an extent of Acres. 3.50 Cents of Jeediguta Village for drinking purposes of Jeedigunta public either by re alloting it to the washermen community of the Village i.e., Respondent No.5 or otherwise and pass

**Counsel for the Petitioners: MR.P. JAGADISH CHANDRA PRASAD**

**Counsel for the Respondent Nos.1 to 3: GP for Panchayat Raj & Rural Development**

**Counsel for the Respondent No.4: MR.P.RAGHAVENDRA REDDY**

**Counsel for the Respondent No.5: MR.N.V.SURYANARAYANA MURTHY & MR.K.CHIDAMBARAM**

**The Court made the following :**

**ORDER:**

The petitioners filed this writ petition seeking to declare the inaction of respondent Nos.1 to 3 in implementing the resolution No.31 dated
30-7-1996 passed by respondent No.4 with regard to allotment of Ura tank in an extent of Ac.3-50 cents in R.S. No.20/3 of Jeedigunta village, West Godavari District for the purpose of providing drinking water to the villagers under protected drinking water scheme, and also allotting an extent of Ac.1-00 of the said tank for Rajaka community for their professional purposes, as arbitrary and illegal; and consequently

to direct respondent Nos.2 to 5 not to interfere with the enjoyment of the said tank in an extent of Ac.3-50 cents by the villagers for drinking water purpose, either by reallotting it to the washermen community of the village or otherwise.

The petitioners state that originally an extent of Ac.3-50 cents of the Ura tank was utilized by the washermen community in the village for washing clothes, and the remaining extent of the said tank i.e. Ac.1-00 was used for drinking water purpose, and in view of severe scarcity for drinking water in the village and on the basis of several representations made by the villagers requesting to provide protected drinking water, respondent No.4-Gram Panchayat, by the resolution in question, allotted the extent of Ac.3-50 cents of Ura tank for the purpose of providing protected drinking water to the villagers and allotted the remaining extent of Ac.1-00 of the said tank to respondent No.5-washermen Sangham for washing clothes. The grievance of the petitioners is that respondent Nos.1 to 3 are not implementing the said resolution at the influence of respondent No.5. Hence, the writ petition.

Respondent No.4-Gram panchayat filed counter-affidavit stating that as there is scarcity of water and the population of the village is increased, and on the basis of the request made by the villagers to set apart big tank for drinking water, the Gram Panchayat passed the resolution in question earmarking Ac.3-52 cents of the tank for drinking water purpose and Ac.1-00 of the tank for washermen community. It is stated that respondent No.5 questioning the said resolution filed O.S. No.466 of 1996 on the file of District Munsif, Kovvur and the same is pending. It is stated that now the villagers are utilizing the water as per the resolution.

A counter-affidavit is also filed on behalf of respondent No.5-Sangham stating that the big tank is washerman tank of the village and it cannot be converted into drinking water tank, since as per G.O. Ms.No.343, dated 10-4-1978 (Panchayat Raj), washerman tanks should be leased out to washermen societies. It is stated that aggrieved by the said resolution, they filed a suit in O.S. No.466 of 1996 on the file of Principal District Munsif, Kovvur seeking perpetual injunction against respondent Nos.1, 3 and 4 herein, and same is pending. It is stated that the petitioners raised disputed questions of facts, which have to be adjudicated in a civil suit and not in a writ petition. Thus, respondent No.5 prays to dismiss the writ petition.

Heard the learned counsel for the petitioners and the learned counsel for respondent No.5.

The learned counsel for the petitioners submitted that the suit in O.S. No.466 of 1996 filed by respondent No.5-Sangham before the Principal Junior Civil Judge, Kovvuru, seeking mandatory injunction directing respondent Nos.1, 3 and 4 herein to fix up-set price for fishing rights for three years in Ac.3-52 cents of Ura tank in their favour and also perpetual injunction restraining respondent Nos.1, 3 and 4 herein from ever directing any other Body either for washing clothes or for catching fish in the said tank except their Sangham, was dismissed on merits. He produced a copy of judgment, dated 20-9-2002 in the said suit. He submitted that inasmuch as the claim of respondent No.5 preferred against the resolution in question was rejected after full-pledged trial in the suit filed by them in O.S. No.466 of 1996, the present writ petition seeking implementation of the subject resolution, can be allowed.

The learned counsel for respondent No.5 submitted that he has no instructions from respondent Nos.5.

Having regard to the facts and circumstances of the case and in view of the fact that the suit in O.S. No.466 of 1996 filed by respondent No.5 herein before the Principal Junior Civil Judge questioning the subject resolution was dismissed on merits, and having regard to the fact that owing to severe scarcity of drinking water in Jeedigunta village on account of growing needs and population increase in the village, respondent No.4 on the basis of several representations made by the villagers, passed resolution No.31, dated 30-7-1996 earmarking Ac.3-50 cents of Ura tank in R.S.No.20/3 of the village for providing proper drinking water to the villagers under protected drinking water scheme and Ac.1-00 of the said tank for washermen community for the purpose of washing clothes, there should be no reason for respondent Nos.1 to 3 not to implement the resolution in question.

Therefore, respondent Nos.1 to 3 are directed to implement the resolution No. 31, dated 30-7-1996, passed by respondent No.4. Respondent Nos.1 to 5 are restrained from interfering with the enjoyment of Ac.3-50 cents of Ura tank in R.S.No.20/3 for drinking water purpose by Jeedigunta villagers. Accordingly, the writ petition is allowed. No costs.

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**N.V. RAMANA, J**

**Date: 19-4-2005**

Svv

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Bilal Nazki, the Acting Chief Justice on this Tuesday, the Nineteenth day of April, Two thousand and Five.

..... REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The District Collector,( Panchayat Wing), W.G.Dist,
Eluru, West Godavari District
2 District Panchayat Officer, Eluru.
3 Divisional Panchayat Officer, Kovvur, West Godavari District
4 The Executive Officer, Jeedigunta Gram Panchayat, Nidadavolu Mandal, West Godavari District.
5 The President, Rajakajana Seva Sangham, Jeedigunta Village & Post, Nedadavolu Mandal, West Godavari District

6 Two Ccs. to the Government Pleader for Panchayat Raj & Rural Development, High Court Buildings, A.P., Hyderabad (OUT).

7 Two CD copies

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